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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,490	12/09/2005	Thomas Kleeh	095309.56090US	3812

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EXAMINER

BURCH, MELODY M

ART UNIT	PAPER NUMBER
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3683

MAIL DATE	DELIVERY MODE
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11/01/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/532,490

Applicant(s)

THOMAS KLEECH

Examiner

Melody M. Burch

Art Unit

3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 4/22/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 8, 9, 16, 18, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over unpatentable over JP-7269221 (JP'221) in view of DE-19927179 (using US Patent 6761384 to Haaf et al. as an English equivalent).

Re: claims 8, 9, and 18. JP'221 shows in figure 1 a catch brake for slowing an opening movement of a lid upon reaching its open position, the catch brake comprising: a narrowing U-shaped clamping receiver shown in the area of element 13 for braking a tubular hinge bail or pin-like element shown entering element 13 in figure 3 of the lid with a clamping action and to prevent the lid from rebounding, the clamping receiver comprising tapering lateral brake cheeks 13a which form a continuous taper in the direction of the opening motion of the lid wherein the brake cheeks are elastically flexible to one another, and a resiliently deformable connecting link 9 joining the lateral

Art Unit: 3683

brake cheeks together wherein the resiliently deformable connecting link has a fastener 6 for mounting the catch brake.

JP'221 is silent with regards to the catch brake being for a trunk lid of a motor vehicle.

Haaf et al. teach in the figure (figure 1) the use of a catch brake in the environment of a trunk lid of a motor vehicle.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the catch brake of JP'221 to have been incorporated in the environment of a trunk lid of a motor vehicle, as taught by Haaf et al., in order to provide a means of controlling the movement of a trunk lid to ensure passenger safety when handling the trunk.

Re: claim 16. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the brake device such that the connecting link was formed from a softer plastic than the brake cheeks since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Re: claim 19. JP'221, as modified, describes the invention substantially as set forth above, but lacks the limitation of the lid opening device being an automatic system.

Haaf et al. teach in figure 2 the use of a system for opening a trunk lid being automatic.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the lid opening device of JP'221, as modified, to have been an automatic system, as taught by Haaf et al., in order to reduce handling of the lid by passenger hands in order to improve safety.

4. Claims 10, 11, 12, 14, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over unpatentable over JP-7269221 (JP'221) in view of DE-19927179 (using US Patent 6761384 to Haaf et al. as an English equivalent) as applied to claim 9 above, and further in view of US Patent 5460248 to Korb et al.

Re: claims 10 and 14. JP'221, as modified, describes the invention substantially as set forth above, but is silent with regards to the material of the brake elements.

Korb et al. teach in col. 1 lines 36-41 the use of a brake material being made of a hard plastic.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the material of the brake cheeks of JP'221, as modified, to have been made of a hard plastic, as taught by Korb et al., in order to provide a level of elasticity along with durability.

Re: claims 11, 12, and 15. JP'221, as modified, discloses the claimed invention except for the plastic material specifically including polyoxymethylene.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the plastic to have included polyoxymethylene since it has been held to be within the general skill of a worker in the art to select a

Art Unit: 3683

known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

5. Claims 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over unpatentable over JP-7269221 (JP'221) in view of DE-19927179 (using US Patent 6761384 to Haaf et al. as an English equivalent) and Korb et al. as applied to claim 12 above, and further in view of US Patent 5460248 to Korb et al. and further in view of US Patent 5284400 to Thomas.

JP'221, as modified, describes the invention substantially but lacks the limitation of the cheeks being formed from a relatively hard core which is embedded in a softer plastic material.

Thomas teaches in col. 1 lines 56-91 the use of a harder core being embedded in a softer plastic material.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the construction of the brake of JP'221, as modified, to have included the hard core embedded in a softer plastic, as taught by Thomas, in order to provide durability and strength without compromising weight and ergonomic factors.

6. Claims 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over unpatentable over JP-7269221 (JP'221) in view of DE-19927179 (using US Patent 6761384 to Haaf et al. as an English equivalent) as applied to claim 16 above, and further in view of US Patent 5460248 to Korb et al. and further in view of US Patent 5284400 to Thomas.

JP'221, as modified, describes the invention substantially but lacks the limitation of the cheeks being formed from a relatively hard core which is embedded in a softer plastic material.

Thomas teaches in col. 1 lines 56-91 the use of a harder core being embedded in a softer plastic material.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the construction of the brake of JP'221, as modified, to have included the hard core embedded in a softer plastic, as taught by Thomas, in order to provide durability and strength without compromising weight and ergonomic factors.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patents: 5226851 to Tanner et al., 4371355 to Baumann, and 2591769 to Beechler teach the use of catches having brake cheeks joined by a connecting link.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melody M. Burch whose telephone number is 571-272-7114. The examiner can normally be reached on Monday-Friday (6:30 AM-3:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Siconolfi can be reached on 571-272-7124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3683

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

mmb

October 29, 2007

Melody M. Burch
Melody M. Burch
Primary Examiner
Art Unit 3683
10/28/07